

## **REMARKS**

Applicant has elected to combine claims 1 and 2 thereby limiting the adjuvants selected for enhancing the fungicidal efficacy to the group consisting of only those from claim 2 as originally filed. This should clearly overcome the rejection of claims 1-3 under 35 USC 112, first paragraph.

Moreover, the adjuvants listed in claim 2 which are now incorporated into claim 1 are clearly patentable over the cited reference Kim et al '080 in view of Capuzzi et al (USP 5,909,072) for the same reasons set forth in the amendment filed on July 20, 2009.

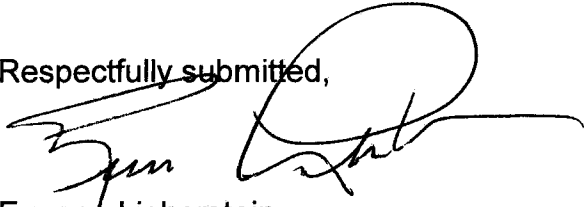
Moreover, because of the limitations in the group of selected adjuvants in claim 1 as currently amended, the use of the term "one or more adjuvants" no longer results in a broad change in claim scope as suggested in the Advisory Action.

In addition, the adjuvants in claim 1, as currently amended, are distinctly different in chemical structure as well as in their effect since they enhance the penetration of the subject agrochemicals relative to the adjuvants taught in Kim et al '080. Furthermore, as explained in our amendment dated July 20, 2009, the cited reference Capuzzi '072 teaches surface-active agents which are merely used to form a stable micro-emulsion and not for enhancing fungicidal efficacy. The adjuvants cited in Capuzzi et al '072 are intended to use with systemic fungicides and exhibit a poor penetration activity as compared to the excellent penetration activity of the adjuvants of the subject invention which provide a penetration of up to 140 times that of Capuzzi et al.

For all of the above reasons, claims 1 and 3 are now believed to be clearly patentable over the cited references.

Reconsideration and allowance of claims 1, 3 and 5 is respectfully solicited.

Respectfully submitted,



Eugene Lieberstein  
Registration No. 24,645

Customer #: 79681

Baker & Hostetler, LLP  
45 Rockefeller Plaza  
New York, NY 10111  
Tel: (212) 589-4634 /Fax: (212) 589-4201

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being deposited with the U.S. Patent and Trademark Office via the EFS Web and is addressed to The Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450, on October 20, 2009.

By 